IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2782 of 2005

Between:

1 T. Sudharani D/o. T. Ramakrishnaiah,
Both R/o.H.No. 12-662, Dharmavaram, Ananthapur District.
2 T. Kalpana D/o. T. Ramakrishnaiah,
Both R/o.H.No. 12-662, Dharmavaram, Ananthapur District.

..... PETITIONERS

AND

1 ING Vysya Bank Limited, Durgamma Temple Street,
Dharmavaram Ananthapur District, Rep. by its Branch Manager.
2 T. Ramakrishnaiah S/o. T. Ramaiah
Respondents No. 2 to 4 R/o. 2-151, Main Road, Main Bazar, Dharmavaram,
Ananthapur District.
3 T. Ravi Kumar S/o. T. Ramakrishnaiah
Respondents No. 2 to 4 R/o. 2-151, Main Road, Main Bazar, Dharmavaram,
Ananthapur District.
4 T. Rajesh S/o. T. Ramakrishnaiah
Respondents No. 2 to 4 R/o. 2-151, Main Road, Main Bazar, Dharmavaram,
Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or writs, order or Direction, declaring and setting aside the Sale Notice dt. 18-1-2005 issued by first respondent herein as illegal, unconstitutional and without jurisdiction; Award costs and pass such other or further orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.N.RANGA REDDY

Counsel for the Respondent No.:

The Court at the admission stage made the following :

O R D E R:

The petitioners are sisters and respondents 2,3 and 4, in turn, are their brothers. They alleged that an item of ancestral property, namely, a commercial building in D.No.2-151 of Dharmavaram town, was mortgaged without their knowledge in favour of the 1st respondent, and the same is sought to be auctioned through sale notice dated
18-01-2005. They state that they have their shares in the said property and the sale cannot be affected.

Heard learned counsel for the petitioners.

Even assuming that the petitioners are entitled for a share, they have to work out their remedies by filing a suit for partition against respondents 2,3 and 4. Till their rights are established, the mortgage that was executed in favour of the 1st respondent by respondents 2,3 and 4 cannot be treated as illegal and ineffective. The sale is proposed to be held on 02-03-2005. This court is not inclined to interfere with the same.

Hence the writ petition is dismissed leaving it open to the petitioners to work out their remedies in an appropriate civil Court, if they are so advised. There shall be no order as to costs.

17-02-2005

L.NARASIMHA REDDY, J

MJL/TS

To,

1 The Branch Manager, ING Vysya Bank Limited, Durgamma Temple Street, Dharmavaram Ananthapur District,

2. 2 CD copies.